



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813

Committee: Committee on Finance
Bill Number: S.B. 144, S.D.2, H.D.1
Hearing Date/Time: March 28, 2019, 3:00 p.m.
Re: Testimony of the Hawai'i State Ethics Commission in **SUPPORT** of
S.B. 144, S.D.2, H.D.1, Relating to Lobbyists

Dear Chair Luke, Vice Chair Cullen, and Committee Members:

The Hawai'i State Ethics Commission ("Commission") supports S.B. 144, S.D.2, H.D.1, which makes two modest changes to the Lobbyists Law's enforcement provisions in Hawai'i Revised Statutes ("HRS") § 97-7, and amends HRS § 97-6(c) to harmonize the Lobbyists Law with the Uniform Information Practices Act, HRS chapter 92F.

First, the Commission supports the proposed amendment to delete the penultimate sentence of HRS § 97-6(c) regarding access to transcripts of contested case hearings. The existing statutory language conflicts with the policies underlying the Uniform Information Practices Act, insofar as contested case hearings before the Commission are public (and there does not seem to be any public policy favoring a restriction on access to transcripts). As such, the Commission supports the proposed amendment to HRS § 97-6(c).¹

Second, this bill removes the outdated requirement that the Ethics Commission prove an individual *willfully* failed to file a lobbying report. This existing statutory language – requiring the Commission to prove that an individual *intended* not to file a lobbying report – is held over from a time when violations of the Lobbyists Law were criminal offenses. The penalties have been civil, rather than criminal, for quite some time, but the criminal law state-of-mind (or *mens rea*) requirement remains. As such, the Commission supports the proposed amendments.

Finally, this bill amends the Lobbyists Law so that its enforcement language is similar to the enforcement language of the Ethics Code (which was amended by the Legislature in 2017)² to ensure consistency and uniformity in Commission activity.

¹ There is a separate issue as to the cost for respondents and the public to access these transcripts; while the Legislature is obviously welcome to address that issue via statute as well, the Commission believes it can resolve that question via administrative rule.

² In 2017, the Legislature amended HRS § 84-39 (entitled "Administrative Fines") – the enforcement section of the State Ethics Code, HRS chapter 84 – to read in relevant part:

(b) No fine shall be assessed under this section unless:

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 144, S.D.2, H.D.1.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

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- (1) The state ethics commission convenes a hearing in accordance with section 84-31(c) and chapter 91 and a decision has been rendered by the commission; or
 - (2) The state ethics commission and respondent agree to resolve any charge of an alleged violation prior to completion of the contested case process and the resolution includes payment of an administrative fine or restitution, or both.

See Act 50 of 2017, available at https://www.capitol.hawaii.gov/session2017/bills/GM1150_.PDF. The Commission supports an amendment to HRS chapter 97 to harmonize the enforcement provisions of chapters 84 and 97.

SB-144-HD-1

Submitted on: 3/27/2019 10:06:30 AM

Testimony for FIN on 3/28/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments: